

CHAPTER 54-59

INFORMATION TECHNOLOGY DEPARTMENT

54-59-01. Definitions. As used in this chapter:

1. "Agency" or "entity" does not include any agricultural commodity promotion group or any occupational or professional board.
2. "Department" means the information technology department.
3. "Information technology" means the use of hardware, software, services, and supporting infrastructure to manage and deliver information using voice, data, and video.
4. "Network services" means the equipment, software, and services necessary to transmit voice, data, or video.

54-59-02. Information technology department - Responsibility - Public policy. The information technology department is established with the responsibility for all wide area network services planning, selection, and implementation for all state agencies, including institutions under the control of the board of higher education, counties, cities, and school districts in this state. With respect to a county, city, or school district, wide area network services are those services necessary to transmit voice, data, or video outside the county, city, or school district. In exercising its powers and duties, the department is responsible for computer support services, host software development, statewide communications services, standards for providing information to other state agencies and the public through the internet, technology planning, process redesign, and quality assurance. The department may not exercise its powers and duties in a manner that competes or otherwise interferes with the provision of telecommunications service to a private, charitable, or nonprofit entity by a privately or cooperatively owned telecommunications company.

54-59-02.1. Department shall establish certain standards for agencies - Advisory committee - Exceptions. The department shall appoint an advisory committee consisting of representatives of state agencies for the purposes of prioritizing major computer software projects and establishing policies, standards, and guidelines for executive branch state agencies, departments, and institutions, excluding institutions under control of the state board of higher education and agencies of the judicial and legislative branches with respect to the purchase of computer software and computer systems. The chief information officer shall submit recommendations of the advisory committee regarding major software projects to the information technology committee for consideration by the committee and the drafting of appropriate legislation to implement the recommendations. The judicial and legislative branches shall annually notify the advisory committee on their major computer software projects and priorities. The chief information officer may exempt an agency from the policies, standards, and guidelines established by the committee to address situations unique to that agency.

54-59-03. Chief information officer of the state. The governor shall appoint the chief information officer of the state. The governor shall appoint the chief information officer on the basis of education, experience, and other qualifications in information technology and administration. The position of chief information officer is not a classified position. The chief information officer serves at the pleasure of the governor. The governor shall set the salary of the chief information officer within the limits of legislative appropriations.

54-59-04. Duties of chief information officer. The chief information officer shall:

1. Administer the department.
2. Employ any personnel determined to be necessary to carry out the responsibilities of the department and duties as prescribed by law.

3. Fix the salaries of all employees within the department, within the limits of legislative appropriation. All personnel within the department are entitled to actual and necessary travel expenses at the same rate as for other employees of the state.

54-59-05. Powers and duties of department. The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.
3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the budget section of the legislative council or the legislative assembly before executing a financing agreement. If the budget section or the legislative assembly does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.
5. Each executive branch agency or institution, excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. Shall request information on or review information technology, applications, system development projects, and application development projects of executive branch agencies.
8. Shall study emerging technology and evaluate its impact on the state's system of information technology.

9. Shall develop guidelines for reports to be provided by each executive branch agency, institution, or department, the institutions under the control of the board of higher education, and agencies of the judicial and legislative branches on information technology in those entities.
10. Shall review the information technology management of executive branch agencies or institutions.
11. Shall perform all other duties necessary to carry out this chapter.
12. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003. The department shall file with the state auditor before September 1, 2003, a description of the wide area network service the department provided to each private, charitable, and nonprofit entity receiving services from the department on January 1, 2003.
13. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.
14. Notwithstanding subsection 12, the department may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.

54-59-06. Business plan. The department shall develop and maintain a business plan. The business plan must:

1. Define the department's overall organization, mission, and delivery of services.
2. Define the department's short-term and long-term goals and objectives based on customer needs.
3. Outline the strategies and activities necessary to meet the goals and objectives of the department while improving the efficiency of the department and improving service to customers.
4. Define rates and funding mechanisms necessary to finance the proposed activities of the department.
5. Define a method for evaluating progress toward the goals outlined in the business plan.
6. Determine the specific strategies and processes to ensure that agencies share information, systems, and the statewide network.
7. Address the processes that will be put in place to ensure that the department exercises its powers and duties with minimal delay, cost, and procedural burden to an entity receiving services from the department; to ensure that the department provides prompt, high-quality services to an entity receiving services from the department; to ensure that an entity receiving services from the department is aware of the technology available and to ensure training on its use; and to foster information technology innovation by state entities.

54-59-07. State information technology advisory committee. The state information technology advisory committee consists of the chief information officer; the commissioner of higher education or the commissioner's designee; the attorney general or the attorney general's designee; the secretary of state or the secretary of state's designee; the tax commissioner or the commissioner's designee; the chief justice of the supreme court or the chief justice's designee; two members of the legislative assembly appointed by the legislative council; a minimum of eight members representing state agencies, appointed by the governor; and two members with technology management expertise representing private industry, appointed by the governor. The appointees of the governor serve at the pleasure of the governor. The governor shall designate the chairman of the committee. Additional members may be asked to participate at the request of the chairman. The department shall provide staff services to the committee. The members of the committee representing private industry are entitled to be compensated for time spent in attendance at meetings of the committee and for other travel as approved by the chairman of the committee at the rate of sixty-two dollars and fifty cents per day and are entitled to reimbursement for actual and necessary expenses incurred in the same manner as other state officials. The compensation and expenses are to be paid from appropriations for the department. The committee shall advise the department regarding statewide information technology planning and budgeting, services of the information technology department, and statewide information technology initiatives and policy and shall review reports on major information technology projects as required by this chapter.

54-59-08. Required use of wide area network services. Each state agency and institution that desires access to wide area network services and each county, city, and school district that desires access to wide area network services to transmit voice, data, or video outside that county, city, or school district shall obtain those services from the department. The chief information officer may exempt from the application of this section a county, city, or school district that demonstrates its current wide area network services are more cost-effective for or more appropriate for the specific needs of that county, city, or school district than wide area network services available from the department. The chief information officer shall exempt from the application of this section a county, city, or school district that is under contract to receive wide area network services from an entity other than the department, for the term of that contract, but that political subdivision may not extend or renew that contract beyond July 31, 2001.

54-59-09. Information technology standards. Based on information from state agencies and institutions, the department and the office of management and budget shall develop statewide information technology policies, standards, and guidelines. The policies, standards, and guidelines must recognize the uniqueness of certain agencies and state which agencies are included or exempted from the policies, standards, and guidelines. The policies, standards, and guidelines must be reviewed by the state information technology advisory committee. Unless an exemption is granted by the chief information officer, each executive branch state agency and institution, excluding the institutions under the control of the board of higher education with respect to academic and research uses of information technology, shall comply with the policies and standards developed by the department and the office of management and budget. Unless an exemption is granted by the chief information officer, each entity receiving wide area network services provided by the department shall comply with the policies and standards developed by the department with respect to access to or use of wide area network services.

54-59-10. Information technology coordinators. Each agency or institution shall appoint an information technology coordinator. The coordinator shall maintain liaison with the department and assist the department in areas related to making the most economical use of information technology.

54-59-11. Information technology plans. Each executive branch state agency or institution, including the institutions under the control of the board of higher education, shall prepare an information technology plan, subject to approval by the department. The plan must be submitted to the department by July fifteenth of each even-numbered year. The plan must be prepared based on guidelines developed by the department; must provide the information technology goals, objectives, and activities of the entity for the current biennium and the next two

bienniums; and must include information regarding the information technology assets owned, leased, or employed by the entity. Each entity required to file a plan shall provide interim updates to its plan if major information technology changes occur which affect its plan. The department shall review each entity's plan for compliance with statewide information technology policies and standards and may require an entity to change its plan to comply with statewide policies or standards or to resolve conflicting directions among plans. Agencies of the judicial and legislative branches shall file their information technology plans with the department by July fifteenth of each even-numbered year. Each state entity shall prepare its budget request for the next biennium based on its information technology plan. The agency's budget request and the governor's budget recommendation must include supporting information describing in detail how the information technology plan relates to the budget request and recommendation. Any budget adjustment by the budget office must include the corresponding change to the plan. Based on the plans, the department shall prepare a statewide information technology plan and distribute copies of that plan to members of the legislative assembly as requested by the legislative council or its designee. The statewide information technology plan must be developed with emphasis on long-term strategic goals and objectives.

54-59-12. Coordination of activities - Reports. The department shall cooperate with each state entity providing access to any computer data base or electronically filed or stored information under subsection 4 of section 44-04-18 to assist in providing economical, efficient, and compatible access. The chief information officer shall conduct conferences and meetings with political subdivisions to review and coordinate information technology. The chief information officer and the commissioner of the board of higher education shall meet at least twice each year to plan and coordinate their information technology. The chief information officer and commissioner shall consider areas in which joint or coordinated information technology may result in more efficient and effective state government operations. Upon request, the chief information officer shall report to the legislative council or its designated committee regarding the coordination of services with political subdivisions, and the chief information officer and commissioner shall report to the legislative council or its designated committee regarding their findings and recommendations.

54-59-13. Compliance reviews. Repealed by S.L. 2003, ch. 665, § 21.

54-59-14. Information technology operating account. The department shall establish a state information technology operating account in the state treasury to be used, in accordance with legislative appropriation, for procuring and maintaining information technology and network services and for providing information technology, network services, and central microfilm unit services to state entities and network services to users of the state network. Unless exempted by law, each agency or institution provided with information technology or network services shall pay to the department the charges as determined by the department. The department shall deposit the amounts received in the information technology operating account or the information technology development account, as appropriate.

54-59-15. Acceptance of funds. The department may accept federal or other funds, which must be deposited in the information technology operating account and which may be spent subject to legislative appropriation. The department may apply for any public or private grants available for the improvement of information technology.

54-59-16. Confidentiality. The department may receive from various agencies and various agencies may provide to the department any information from the agencies necessary to effect the purposes of this chapter without regard to the confidential nature of the information. Each agency shall notify the department regarding the confidential nature of any information submitted to the department. The department is subject to the same restrictions and penalties regarding the dissemination of this information as the entity involved. Except for a request for access authorized by section 54-10-22.1 or a request to access information collected to carry out section 54-59-09, 54-59-11, or 54-59-13, the department shall refer a request for access to or inspection of information provided by an agency to that agency for response. Referral to the agency satisfies any responsibility of the department to provide that information under open records requirements. Upon court order, the department shall provide access to or inspection of

this information in accordance with restrictions of that entity involved governing dissemination of that information.

54-59-17. Educational technology council - Meetings - Compensation.

1. The educational technology council is responsible for coordinating educational technology initiatives for elementary and secondary education.
2. The educational technology council consists of:
 - a. The chief information officer.
 - b. The superintendent of public instruction or the superintendent's designee.
 - c. The commissioner of higher education or the commissioner's designee.
 - d. A representative appointed by the state board for career and technical education.
 - e. A representative appointed by the governor from a list of three nominees submitted by the North Dakota association of technology leaders.
 - f. A representative appointed by the governor from a list of three nominees submitted by the North Dakota council of educational leaders.
 - g. A representative appointed by the governor from a list of three nominees submitted by the North Dakota school boards association.
 - h. A representative appointed by the governor from a list of three nominees submitted by the North Dakota association of special education directors.
 - i. A school district representative who is appointed by the governor and who represents a school district that has an enrollment in kindergarten through grade twelve of fewer than four hundred.
 - j. A school district representative who is appointed by the governor, who is licensed to teach by the educational standards and practices board, and who is employed by a public school district in this state as a classroom teacher.
 - k. The director of technology for the department of public instruction.
 - l. A representative appointed by the governor from a list of three nominees submitted by the state association of non public schools.
3. The council shall select a chairman from among its members.
4. The term of office for the members appointed by the governor is four years.
5. The members of the educational technology council appointed by the governor are entitled to receive as compensation sixty-two dollars and fifty cents per day and to reimbursement of expenses as provided by law for state officers while attending meetings of the council.

54-59-18. North Dakota educational technology council - Powers and duties. The educational technology council shall:

1. Coordinate the use of technology and the development of technology systems to enhance educational opportunities for elementary and secondary education.

2. Cooperate with state agencies and other organizations to develop statewide educational technology systems.
3. Adopt bylaws for the conduct of its affairs.
4. Publish the informational material it deems necessary.
5. Conduct a continuing study to assess the needs, resources, and facilities that are available or which may be required to establish educational technology systems throughout the state.
6. Solicit and receive moneys from public and private sources and expend the moneys for educational technology.
7. Appoint a technology director who shall serve at the will of the council.
8. Hire the director of the division of independent study.

54-59-19. Information technology department annual report. The department shall prepare and present an annual report to the information technology committee. In addition to the presentation of the annual report to the information technology committee, the department shall present a summary of the annual report to the budget section and to the legislative audit and fiscal review committee. The report must contain:

1. A list of major projects started, ongoing, and completed during the year including related budgeted and actual costs and the estimated implementation date for each project as well as the actual implementation date for completed projects.
2. A list of all projects for which financing agreements have been executed.
3. Information regarding evaluations of cost-benefit analyses for completed projects.
4. A comparison of the department's rates charged for services compared to rates charged for comparable services in other states and in the private sector.
5. Information regarding the information technology plans including the department's plan review process, the number of plans reviewed, and the number of plans approved.
6. A description of the benefits to the state resulting from its investment in information technology.

54-59-20. Employees of the department - Security background information. The chief information officer shall require as a condition of employment with the department that individuals who have unescorted physical access to the facilities or other security sensitive areas of the department designated by the chief information officer submit to a criminal history record check in accordance with section 12-60-24.

54-59-21. Criminal justice information sharing board - Membership - Duties and powers. The criminal justice information sharing board consists of the chief justice of the supreme court or the chief justice's designee, the attorney general or the attorney general's designee, and the chief information officer of the state. The chief information officer is chairman of the board. The information technology department shall provide staff support to the board. The board shall set policy relating to the collection, storage, and sharing of criminal justice information and the systems necessary to perform those functions. The board shall provide operational oversight for criminal justice information sharing activities and shall approve and provide oversight of criminal justice information sharing budgets. The board may appoint an executive committee and an advisory committee that would serve in an advisory capacity to the board.

54-59-22. Required use of electronic mail, file and print server administration, data base administration, application server, and hosting services. Each state agency and institution, excluding the legislative and judicial branches, the institutions under the control of the state board of higher education, the public employees retirement system, the retirement and investment office, the attorney general, and any entity exempted by the office of management and budget after advisement by the information technology department, shall obtain electronic mail, file and print server administration, data base administration, storage, application server, and hosting services through a delivery system established by the information technology department in conjunction with the office of management and budget. The office of management and budget, after receiving advice from the information technology department, shall establish policies and guidelines for the delivery of services, including the transition from existing systems to functional consolidation, with consideration given to the creation of efficiencies, cost-savings, and improved quality of service.

54-59-23. Information technology projects - Reports.

1. An executive, legislative, or judicial branch agency, except for institutions under the control of the state board of higher education, shall report to the state information technology advisory committee according to guidelines developed by the department and reviewed by the state information technology advisory committee regarding the plan for and status of any information technology project that is estimated to cost more than two hundred fifty thousand dollars.
2. During the life of the project, the agency shall notify the state information technology advisory committee if:
 - a. At a project milestone, the amount expended on project costs exceeds the planned budget for that milestone by twenty percent or more; or
 - b. At a project milestone, the project schedule extends beyond the planned schedule to attain that milestone by twenty percent or more.
3. A report under subsection 2 must specify corrective measures being undertaken to address any cost or time of completion issue. If the agency has not taken adequate corrective measures within ninety days after the report, the agency shall submit a report to the legislative council's information technology committee regarding the project.
4. Upon completion of the project, the agency shall notify the state information technology advisory committee if:
 - a. The budget for the project exceeded the original budget by twenty percent or more; or
 - b. The final project completion date extended beyond the original project scheduled completion date by twenty percent or more.